

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HEEREN BROTHERS, INC.,

Plaintiff,

Case No. 1:09-CV-154

v.

HON. GORDON J. QUIST

12450 FELCH ROAD LLC,
ANGELA MAMOUZELLOS, and
GEORGE BORIVILOS,

Defendants.

MEMORANDUM

Plaintiff has filed an Application to the Clerk for Entries of Judgment by Default Against all Defendants (docket no. 18). Plaintiff requests the Clerk to enter judgment against all Defendants in the amount of \$4,327.27, consisting of \$2,475.93 for the amount of supplied commodities, interest of \$76.92, attorney fees in the amount of \$1,350, and costs of \$424.42.

Pursuant to Fed. R. Civ. P. 55(b)(1), the Clerk may enter a default judgment “[i]f the plaintiff’s claim is for a sum certain or a sum that can be made certain by computation.” While most of the elements of Plaintiff’s requested default judgment are for a sum certain, courts have held that requests for attorney fees are not for a “sum certain” because the court must determine whether the fees are reasonable. *See Carter v. Macon Manor NRC, LLC*, No. 5:06-CV-00030 (OHL), 2007 WL 951419, at *2 (M.D. Ga. Mar. 27, 2007) (noting that “Rule 55(b)(1) does not allow an award of attorney fees as part of a default judgment entered by the clerk”) (citing *Hunt v. Inter-Globe Energy, Inc.*, 770 F.2d 145, 148 (10th Cir. 1985)); *Int’l Union of Operating Eng’rs v. Stanley Excavation,*

243 F.R.D. 25, 27 n. 5 (D. Maine 2007) (a claim for attorneys fees prevents the clerk from entering judgment under Rule 55(b)(1)).

Accordingly, the Court has reviewed Plaintiff's application for default judgment and concludes that the requested attorney fees in the amount of \$1,350 are reasonable. Therefore, the Court will enter a default judgment against Defendants in the total amount of \$4,327.27.

Dated: April 21, 2009

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE